

OFFICIAL COPY

Fresno, California

January 31, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
 Jon Ruiz, Assistant City Manager
 Hilda Cantu Montoy, City Attorney
 James Sanchez, Chief Assistant City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

President Duncan noted the passing of Coretta Scott King and a Moment of Silence was called for and observed.

Elder Lester Williams gave the invocation, and Councilmember Boyajian led the Pledge of Allegiance.

PROCLAMATION OF "AMERICAN HEART ASSOCIATION'S GO RED FOR WOMEN DAY" - MAYOR AUTRY AND COUNCILMEMBER WESTERLUND

Read and presented.

PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE WINTER QUARTER

Certificates of Appreciation were presented to Jeaneen Cervantes, Mayor/Council/City Manager/City Clerk Departments; Mendi Mendizabal, Airports Department; Yvonne Arellano, Finance Department; Addison Clark, Fire Department; Joseph Suthipana, Gonzalo Macias and Wendy Norris-Stovall, Fresno Area Express (FAX); Heather Aceves and John DeLucia, General Services Department; Raj Nagra, Information Services Department; Debbie Fernandez, Bruni Macias, Nick Villalobos and Billy Hicks, Parks, Recreation & Community Services Department; Heidi Briggs and Sandra Chavez Martin, Personnel Services Department; Duane Quenzer and Bertha Najera, Planning & Development Department; Darlene Montano, Pa Chixang, Olivia Crump and Mickey Smith, Police Department; Fredrick Mitchell, Joseph Mayberry, Paula Clark, Brenda Weakley and Joe Diaz, Department of Public Utilities; and Mary Baker, Shawn Taylor, Raymond Lorona, John Lowe, Jeff Beck and Dave Cornish, Public Works Department. A reception was held for the employees in the foyer immediately following.

RECESS - 9:10 A.M. - 9:20 A.M.

APPROVE MINUTES OF JANUARY 24, 2006

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the minutes of January 24, 2006, approved as corrected by Councilmember Sterling on Page 147-19, "Council Member Reports and Comments", correcting her Intern's name from Christopher Benson and Christopher Vincent.

COUNCIL MEMBER REPORTS AND COMMENTS:

WORKER'S COMPENSATION PROGRAM AND REQUEST FOR UPDATE ON ISSUES/CLAIMS OF FPOA AND CITY EMPLOYEES - COUNCILMEMBER STERLING

Request made.

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After approval of the agenda Councilmember Calhoun made his comments as follows:

(1) BNSF/CALTRANS FIGARDEN SIDING PROJECT; (2) LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT (LLMD) RESOURCE ISSUE; AND (3) THE CONSOLIDATED POLICE, FIRE AND SHERIFF TRAINING/OPERATIONS CENTER - COUNCILMEMBER CALHOUN

(1) Councilmember Calhoun noted he and staff attended a meeting on the issue last Thursday and there were a lot of unhappy people, and stated he has been -- and would continue to be -- very engaged in this issue as it attempts to proceed forward and he planned to schedule the matter on the March 14th agenda; (2) requested the city manager provide information on the status and time-line on the LLMD mailed ballot process to determine if there is resident support to pay for the service, and (3) requested an update including the status of the grant funds, project specifics being proposed, and projected time-line to return to council for action.

APPROVE AGENDA:

(1-D) AWARD A CONTRACT TO BILL MARVIN ELECTRIC, INC., FOR THE INSTALLATION OF LIGHTING AT THE CURRENT RENTAL CAR LOT AT FRESNO YOSEMITE INTERNATIONAL AIRPORT

Removed from the agenda by staff/to be rescheduled.

(2:30 P.M. and 5:00 P.M.) HEARING ON PLAN AMENDMENT NO. A-05-02, REZONE APPLICATION NO. R-05-26 AND ENVIRONMENTAL FINDINGS FILED BY PAYNTER REALTY AND INVESTMENTS, INC., PROPERTY LOCATED ON THE SOUTHWEST CORNER OF W. HERNDON AND N. BRAWLEY AVENUES IN DISTRICT 2 (Continued to 5:00 p.m. this date)

City Clerk Klisch advised a Resolution proposing to amend the Fresno General Plan and Bullard Community Plan (denying the plan amendment) should have been listed on the agenda but was inadvertently omitted and was included in Council's packet. So noted and added.

Upon question of Councilmember Westerlund, City Clerk Klisch clarified Council rescheduled the matter for 5:00 p.m. after it was officially noticed for 2:30 p.m. therefor it had to be shown at both times on the agenda. Continued as noted.

(9:15 A.M.) GENERAL ADMINISTRATION:

("D") RESOLUTION- 60TH AMENDMENT TO AAR 05-286 RE-BUDGETING CAPITAL FUNDS FOR MULTIPLE PROJECTS IN THE PARKS, RECREATION & COMMUNITY SERVICES CAPITAL IMPROVEMENT PLAN AND PALM LAKES GOLF COURSE OPERATING FUND

At the request of Councilmember Westerlund the matter was set for 2:00 p.m. this date to give him time to ask questions of staff and was subsequently moved to 4:00 p.m.

(3:00 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF JANUARY 10 AND 24, 2006

(A) ACCESS FULTON MALL AND MAKE RECOMMENDATIONS TO COUNCIL AND AGENCY BY SEPTEMBER 1ST - COUNCILMEMBER CALHOUN

President Duncan stated he agreed action needed to be taken but he had yet to see the "Creative Economy Council Report" noted in Councilmember Calhoun's report to Council, noted the Creative Council was planning to make a report to Council on February 28th and he felt it was incumbent upon Council to wait for that before taking any action, and made a motion to table this matter to two weeks *after* the Creative Council's presentation (at least March 14th).

On motion of President Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, Item "A" tabled to two weeks *after* the report/presentation by the Creative Economy Council, by the following vote:

Ayes :	Boyajian, Sterling, Westerlund, Duncan
Noes :	Calhoun, Dages, Perea
Absent :	None

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Approval of the Agency Minutes was continued to the next RDA meeting.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the **AGENDA** hereby approved as modified, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(**Note - At this point Councilmember Calhoun made his reports/comments which are included above.)

ADOPT CONSENT CALENDAR:

Relative to Item **1-I** and upon question of Councilmember Westerlund, City Manager Souza confirmed the contract should read \$5,000 for expenses as the staff report did and added staff would make that change. Councilmember Westerlund pulled Item **1-J** from the consent calendar for discussion/action at 2:00 p.m., which time was subsequently changed to 4:00 p.m. Councilmember Westerlund also registered a "NO" vote on Item **1-N**.

Relative to Item **1-A** Councilmember Calhoun stated he received information from the police department on how the evaluation process worked as that was not provided in the staff report and added he was satisfied with the answers provided, and commended staff on Item **1-L** and tightening up the blighted building ordinance.

President Duncan registered "NO" votes on Items **1-M** and **1-N**.

(1-A) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH ONE BY ONE LEADERSHIP AND COMPLETE ALL DOCUMENTS REQUIRED FOR THE MENTORING CHILDREN OF PRISONERS GRANT PROGRAM

1. RESOLUTION NO. 2006-44 - 50TH AMENDMENT TO AAR 05-285 APPROPRIATING \$71,300 OF GRANT FUNDS TO FUND ONE COMMUNITY SERVICE OFFICER II POSITION AND ONE CADET I POSITION FROM 1/10/06 THROUGH 7/29/06

2. RESOLUTION NO. 2006-45 - 19TH AMENDMENT TO PAR 05-287 ADDING THE POSITIONS TO THE POLICE DEPARTMENT FOR THE PROGRAM

(1-B) AWARD A CONTRACT TO STEVE DOVALI CONSTRUCTION IN THE AMOUNT OF \$146,000 TO CONSTRUCT WATER WELL SITE IMPROVEMENTS AT PUMP STATION 230A

(1-C) AWARD A CONTRACT TO EMMETTS' EXCAVATION, INC. IN THE AMOUNT OF \$209,663 FOR THE FRESNO CHANDLER EXECUTIVE AIRPORT STORM DRAIN PROJECT

(1-E)RESOLUTION NO. 2006-46 - DEDICATING CERTAIN CITY-OWNED PROPERTY ON THE NORTH SIDE OF W. BARSTOW AVENUE WEST OF N. GOLDEN STATE BOULEVARD FOR PUBLIC PEDESTRIAN WALKWAY PURPOSES

(1-F) APPROVE SALE OF A 1,013 SQUARE FOOT ABANDONED WATER WELL SITE LOCATED AT S. JUDY AND E. GARRETT AVENUES TO THE ADJACENT PROPERTY OWNER ORVILLE AND RUBY HEFLEY, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND COMPLETE THE DISPOSAL OF ABANDONED WATER WELL SITE

(1-G) APPROVE CORRECTIONS (TYPOGRAPHICAL ERRORS) TO VARIOUS SECTIONS OF ARTICLE VII OF THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 (FIRE MANAGEMENT, UNIT 10)

(1-H) RESOLUTION NO. 2006-47 - APPROVING THE FINAL MAP OF TACT NO. 5343 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, SOUTHWEST CORNER OF E. SHIELDS AND N. TEMPERANCE AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT WITH RIGHT OF WAY ACQUISITION ADDENDUM, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY STORM DRAINAGE FACILITIES

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2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING FOR SANITARY SEWER CAPACITY IN THE FOWLER AVENUE TRUCK SEWER AND DEFERRING PAYMENT OF INTERIM FEE SURETY TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING SPECIAL SOLID WASTE DISPOSAL SERVICES FOR CERTAIN LOTS

3. AUTHORIZE THE PLANNING & DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-I) APPROVE PROFESSIONAL SERVICES AGREEMENT WITH SIMON & COMPANY, INC. FOR LOBBYING AND LEGISLATIVE SERVICES IN WASHINGTON, DC

(1-K) **BILL NO. B-3 - ORDINANCE NO. 2006-8** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE REPAYMENT PERIOD FOR THE REDEPOSIT OF CONTRIBUTIONS IN THE EMPLOYEES RETIREMENT SYSTEM

(1-L) **BILL NO. B-4 - ORDINANCE NO. 2006-9** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE DEFINITION OF "BLIGHTED BUILDING", AND TO ADMINISTRATIVE PENALTY FOR NON-COMPLIANCE WITH VACANT BUILDING PLAN

(1-O) **JOINT COUNCIL/AGENCY ACTION:** APPROVE REQUEST FOR CONFLICT OF INTEREST WAIVER REQUESTED BY DALE BACIGALUPI OF THE BACIGALUPI, NEUFELD AND ROWLEY LAW FIRM, REGARDING CITY AND NORTH CENTRAL FIRE PROTECTION DISTRICT MUTUAL AID NEGOTIATIONS

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(1-M) **BILL NO. B-6 - ORDINANCE NO. 2006-10** - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITING SMOKING IN PARKS

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-6 adopted as Ordinance No. 2006-10, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund
 Noes : Duncan
 Absent : None

(1-N) INTRODUCTION OF ORDINANCE BILLS AMENDING THE FRESNO MUNICIPAL CODE (FMC) RELATING TO THE STATUS OF DOMESTIC PARTNERS UNDER THE RETIREMENT SYSTEMS

1. **BILL NO. B-12** - AMENDING VARIOUS SECTIONS OF THE FMC UNDER THE FIRST TIER OF THE FIRE & POLICE RETIREMENT SYSTEM

2. **BILL NO. B-13** - AMENDING VARIOUS SECTIONS OF THE FMC UNDER THE SECOND TIER OF THE FIRE & POLICE RETIREMENT SYSTEM

3. **BILL NO. B-14** - AMENDING VARIOUS SECTIONS OF THE FMC UNDER THE EMPLOYEES RETIREMENT SYSTEM

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill Nos. B-12, B-13 and B-14 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling
 Noes : Westerlund, Duncan
 Absent : None

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(9:00 A.M.) PUBLIC COMMENT PERIOD:**("A") SCHEDULED COMMUNICATION:**

APPEARANCE BY AJ DHALI, ESQ., TO INFORM COUNCIL OF "FRESNO ACORN" OPERATING A NO-COST VOLUNTARY INCOME TAX ASSISTANCE (VITA) SITE IN THE CITY

Appearance made with Councilmember Sterling stating this was another resource to inform and help low income families and thanked Mr. Dhali. Upon question of Councilmember Westerlund, Mr. Dhali advised the phone number for people to call was 222-9013, and upon request agreed to contact Councilmember Westerlund's office staff relative to canvassing areas in District 4 that fit the profile.

("B") UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

(9:15 A.M.) GENERAL ADMINISTRATION:

("A") REQUEST FOR CONDITIONAL APPROVAL OF HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM LOAN FUNDS IN THE AMOUNT OF \$1,800,000 TO SADI LLC FOR CONSTRUCTION OF A 104-UNIT AFFORDABLE RENTAL HOUSING DEVELOPMENT AT THE SOUTHEAST CORNER OF MAPLE AND CALIFORNIA AVENUES IN DISTRICT 5

HCD Manager Sigala reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Dages advised he met with the developer and issues were worked out and made a motion to approve.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, a commitment of HOME Program loan funds in the amount of \$1,800,000 to SADI LLC for the construction of a 104-unit affordable rental housing development in southeast Fresno conditionally approved, by the following vote:

ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

("B") REQUEST FOR CONDITIONAL APPROVAL OF HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM LOAN FUNDS IN THE AMOUNT OF \$1,200,000 TO AMCAL MULTI-HOUSING INC., FOR CONSTRUCTION OF A 69-UNIT AFFORDABLE RENTAL HOUSING DEVELOPMENT NORTHWEST OF ELM AND JENSEN AVENUES IN DISTRICT 3

HCD Manager Sigala reviewed the issue as contained in the staff report as submitted and recommended approval. Councilmember Sterling thanked staff for their work, stated this was an excellent project and thanked the developer for making home-ownership a reality, and made a motion to approve.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, a commitment of HOME Program loan funds in the amount of \$1,200,000 to AMCAL Multi-Housing Inc., for construction of a 69-unit affordable rental housing development in southwest Fresno conditionally approved, by the following vote:

ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

("C") ANNUAL UPDATE OF PRIORITY RANKING LISTS FOR NEW TRAFFIC SIGNAL INSTALLATIONS, TRAFFIC SIGNAL LEFT TURN PHASING, AND INTERSECTIONS COVERED BY TRAFFIC SIGNAL IMPACT FEES

Public Works Director Healey reviewed the issue as contained in the staff report as submitted, requested approval, and along with Traffic Engineering Manager Mozier and Assistant City Manager Ruiz responded to numerous questions of Councilmembers Boyajian, Westerlund, Dages and Sterling on various projects/rankings.

and request

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On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the updated City-wide priority ranking lists for new traffic signal installations and traffic signal left turn phasing received, and the updated list of intersections covered by traffic signal impact fees hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

President Duncan requested staff make the list available on the City's website.

Discussion ensued on the time gap there would be in the afternoon and it was determined to reconvene after lunch at 4:00 p.m. (Instead of 2:00 p.m.) to hear the contested consent item (1-J) and the 9:15 "D" item.

(2-A) SELECTION OF CITY ATTORNEY - CITY ATTORNEY SELECTION COMMITTEE

- 1. APPROVE SELECTION PROCESS FOR APPOINTMENT OF THE NEW CITY ATTORNEY**
- 2. APPROVE APPOINTMENT OF JAMES SANCHEZ AS INTERIM CITY ATTORNEY**

President Duncan and City Attorney Montoy explained the process being proposed by the committee **(3 - 0)**, all as outlined in the report to Council as submitted, with Ms. Montoy clarifying the process was legal. Councilmember Westerlund stated the process sounded like a positive one and questioned if the firm selected would meet with each council member and relative to narrowing the field of candidates to the top three questioned if it could be changed to the top 4 or 5 if qualified, with President Duncan responding affirmatively.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, (1) the proposed process on the selection of the new city attorney hereby approved, with the field of top candidates being narrowed down to up 5 if qualified, and (2) James Sanchez appointed as Interim City Attorney when Ms. Montoy leaves, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(10:15 A.M.) HEARING ON RE ZONE APPLICATION NO. R-05-75 AND ENVIRONMENTAL FINDINGS, FILED BY GREGG C. WATSON, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF THE E. CALIFORNIA AND S. LOTUS AVENUES INTERSECTION EAST OF, AND ADJACENT TO, STATE ROUTE 99 IN DISTRICT 3

- 1. CONSIDER AND ADOPT E.A. NO. R-05-75/V-05-23, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**
- 2. BILL NO. B-15 - ORDINANCE NO 2006-11 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-5 AND R-2 TO R-1**

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planner Tackett advised the staff report as submitted was complete and there were no changes.

Upon call, no one wished to be heard and President Duncan closed the hearing.

The applicant representative and Mr. Tackett responded to questions of Councilmember Sterling relative to whether the home would be owner-occupied and if all the Caltrans issues had been addressed. Councilmember Sterling spoke in support stating she has always supported in-fill projects and made to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the environmental finding of the subject E.A. dated November 10, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-15 rezoning the subject property adopted as Ordinance No. 2006-11, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

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(10:20 A.M.) HEARING ON REZONE APPLICATION NO. R-05-49 AND ENVIRONMENTAL FINDINGS, FILED BY GENERATION HOMES, INC., PROPERTY LOCATED ON THE NORTH SIDE OF W. CLINTON BETWEEN N. POLK AND N. HAYES AVENUES, AND DETACHMENT OF THE SUBJECT PROPERTY FROM THE KINGS RIVER CONSERVATION DISTRICT AND NORTH CENTRAL FIRE PROTECTION DISTRICT AND ANNEXATION OF THE PROPERTY TO THE CITY OF FRESNO FOR WHICH LAFCO IS THE RESPONSIBLE AGENCY

1. CONSIDER AND ADOPT E.A. NO. R-05-49/T-5560, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. **BILL NO. B-16 - ORDINANCE NO. 2006-12** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-R TO R-1/UGM

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planner Braun advised the staff report as submitted was complete and there were no changes.

Robert Wood, principal with Generation Homes, thanked staff and stated he agreed with their recommendation and requested Council's support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Councilmember Boyajian stated this was a good project but he could not support it as a city-county plan was needed for the west area and projects were still being done piecemeal and elaborated further. Mr. Braun and Planning & Development Director Yovino responded to questions of Councilmember Westerlund relative to the lower density being proposed and requirements. A motion and second to approve staff's recommendation was made and acted upon after brief comments by Councilmember Dages and President Duncan.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the environmental finding for the subject E.A. dated December 1, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-16 rezoning the project site adopted as Ordinance No. 2006-12, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

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(10:30 A.M.) HEARING ON PLAN AMENDMENT NO. A-04-37, REZONE APPLICATION NO. R-04-112, CUP NO. C-04-341, AND ENVIRONMENTAL FINDINGS FLED BY DERREL'S MINI STORAGE, WEST SIDE OF S. CLOVIS BETWEEN E. JENSEN AN E. CHURCH AVENUES, AND DETACHMENT OF PROPERTY FROM THE KINGS RIVER CONSERVATION DISTRICT AND FRESNO COUNTY FIRE PROTECTION DISTRICT AND ANNEXATION OF THE PROPERTY TO THE CITY FOR WHICH LAFCO IS THE RESPONSIBLE PARTY

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-37/R-04-112/C-04-341

2. **RESOLUTION NO. 2006-48** - AMENDING THE 2025 FRESNO GENERAL PLAN AND ROOSEVELT COMMUNITY PLAN

3. **BILL NO. B-17 - ORDINANCE NO. 2006-13** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20 TO S-L/UGM/cz

4. **RESOLUTION NO. 2006-49** - APPROVING CUP NO. C-04-341

President Duncan announced the time had arrived to consider the issue and opened the hearing. Planner Brock advised the staff report as submitted was complete and there were no changes.

Bill Robinson Sol Development Associates, 2344 Tulare, representing the applicant, thanked staff for their work on this project, stated he agreed with staff's recommendation, and requested Council's support.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Mr. Robinson responded to questions of Councilmembers Dages and Westerlund relative to the land-lock piece and connection, and if the driveway would be paved.

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On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the environmental finding of a Mitigated Negative Declaration for the E.A. dated August 10, 2005, with mitigation measures hereby approved; the above entitled Resolution No. 2006-48 hereby adopted; the above entitled Bill No. B-17 rezoning the subject property, with conditions relating to annexation and to provision of local street access continuity between adjacent residential land and S. Clovis Avenue adopted as Ordinance No. 2006-13; and the above entitled Resolution No. 2006-49 approving CUP No. C-04-341, subject to special permit conditions of approval hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

RECESS 10:40 A.M. - 10:46 A.M.

(10:45 A.M.) CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR: KENNETH PHILLIPS, CITY NEGOTIATOR; FRESNO AIRPORT PUBLIC SAFETY SUPERVISORS (FAPSS), EMPLOYEE ORGANIZATION

B. CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAMES:

1. ADMIRAL INSURANCE V. CRIPPEN, ET AL.
2. CRIPPEN V. COF (HEALTH & SAFETY)
3. COF V. CRIPPEN (WRIT OF MANDATE)
4. CRIPPEN V. COF

C. CONFERENCE WITH LEGAL COUNSEL/ANTICIPATED LITIGATION/SIGNIFICANT EXPOSURE TO LITIGATION: COUNTY OF FRESNO V. COF CLAIM; COF V. COUNTY OF FRESNO CLAIM

D. JOINT COUNCIL/AGENCY MATTER: CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME: HERITAGE FRESNO; FRIENDS OF ARMENIAN TOWN V. REDEVELOPMENT AGENCY; SUP. COURT NO. 05CECG00012; HERITAGE FRESNO; FRIENDS OF ARMENIAN TOWN V. COF; SUP. COURT NO. 06CECG00162

Upon call, no one wished to be heard.

The City Council met in closed session in Room 2125 at the hour of 10:48 a.m. to consider the above matters and adjourned for lunch thereafter.

LUNCH RECESS - 12:00 NOON - 4:00 P.M.

(2:00 P.M. CHANGED TO 4:00 P.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-J) BILL NO. B-5 - ORDINANCE NO. 2006-14 - AMENDING ORDINANCE NO. 04-88 RELATING TO THE CRITERIA ON THE USE OF PUBLIC RESOURCES AND REIMBURSEMENT OF EXPENSES FOR THE MAYOR AND COUNCIL MEMBERS

Councilmember Westerlund advised he had a chance to confer with the city attorney and his questions were answered and made a motion to approve.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Bill No. B-5 adopted as Ordinance No. 2006-14, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

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RECESS - 4:05 P.M. - 4:30 P.M.

(9:15 A.M. "D") RESOLUTION NO. 2006-50 - 60TH AMENDMENT TO AAR 05-286 RE-BUDGETING CAPITAL FUNDS FOR MULTIPLE PROJECTS IN THE PARKS, RECREATION & COMMUNITY SERVICES CAPITAL IMPROVEMENT PLAN AND PALM LAKES GOLF COURSE OPERATING FUND, as amended, deleting *Palm Lakes Golf Course*

Assistant Parks, Recreation & Community Services Director Haynes gave an overview of the issue, all as contained in the staff report as submitted, and along with PR&CS Finance Manager Melikian responded to questions and concerns of Councilmember Calhoun relative to the dollar amount for the Eaton Plaza project and the funding source for the Palm Lakes project. Councilmember Westerlund explained his understanding of the Palm Lakes issue and made a motion to adopt the resolution as proposed, which motion was seconded by Councilmember Boyajian.

Lengthy discussion ensued. Mr. Haynes responded to questions, comments and/or concerns of Councilmember Boyajian, President Duncan and Councilmember Calhoun relative to the Fulton Mall tot lot project and why that project has taken so long, Palm Lakes and if staff was still open to options/proposals, various questions on the Roeding Park restroom replacement project including the law enforcement problems, the El Dorado Park project and if there were plans for a permanent structure **(4 - 0)**, what improvements would be made with the revenues from the sale of Roeding Park annual passes, utilizing Proposition 40 pocket park money for El Dorado Park improvements and what the impact will be/which pocket park(s) will not be built/if there was any opportunity to replenish the money, strong concern/opposition to using Riverside lease payment revenues to pay for Palm Lakes' accrued expenses and ongoing bills and need to ask the city manager to return with funding options as previously requested, and support for other projects and if the Palm Lakes portion could be excluded. Councilmember Westerlund stated he would not amend his motion to exclude Palm Lakes, stressed one way or another those costs would be paid and if general fund money was used some other service(s) would be cut, and added this was an appropriate way to finally clean up Palm Lakes and urged those in opposition to reconsider their positions. President Duncan reminded Council there were excess dollars in the general fund.

A motion of Councilmember Westerlund, seconded by Councilmember Boyajian, to adopt the resolution as recommended by staff failed, due to the need for five affirmative votes, by the following vote,:

Ayes : Boyajian, Dages, Sterling, Westerlund
 Noes : Calhoun, Perea, Duncan
 Absent : None

On motion of President Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2006-50 hereby adopted, as amended, deleting Palm Lakes Golf Course, and staff requested to return with funding options for Palm Lakes, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

RECESS - 5:03 P.M. - 5:18 P.M.

(5:00 P.M.) HEARING ON PLAN AMENDMENT NO. A-05-02, REZONE APPLICATION NO. R-05-26 AND ENVIRONMENTAL FINDINGS FILED BY PAYNTER REALTY AND INVESTMENTS, INC., PROPERTY LOCATED ON THE SOUTHWEST CORNER OF W. HERNDON AND N. BRAWLEY AVENUES IN DISTRICT 2

1. CONSIDER ENVIRONMENTAL ASSESSMENT (E.A.) NO. A-05-02/R-05-26/S-05-315/C-05-179, DETERMINATION OF INITIAL STUDY IDENTIFYING SIGNIFICANT POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS WHICH MAY BE ASSOCIATED WITH THE PROPOSED PROJECT SHOULD IT BE APPROVED AND IMPLEMENTED. BASED UPON THIS INFORMATION, THE CITY OF FRESNO MAY CHOOSE TO DENY THE PROPOSED PROJECT. SHOULD COUNCIL CHOOSE

TO FURTHER CONSIDER THE PROPOSED PROJECT IT IS RECOMMENDED PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) BE COMPLETED IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND GUIDELINES

2. RESOLUTION NO. 2006-51 - DENYING PLAN AMENDMENT NO. A-05-02 PROPOSING TO AMEND THE 2025 FRESNO GENERAL PLAN AND BULLARD COMMUNITY PLAN

147-41

1/31/06

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Planning Manager Unruh gave an in-depth overview of the issue, all as contained in the staff report as submitted, noted staff was recommending Council deny the plan amendment and rezone applications, and further recommended an EIR be completed should Council decide to further consider the project.

Speaking in support of the project, to the background of the issue, to specifics of the project, to concerns with the process, to the substantial support for the project, to a poll conducted and the results, to the other offers the City received, to the traffic study, to the history of the property, and to the City's unfair treatment of Mr. Paynter were: Applicant Dave Paynter; John Dewes, Senior Development Manager for the Target Corporation, Minneapolis, MN (**5 - 0**); Mark Scozzari, Scozzari and Company, 6198 E. Willow #106, Clovis; Attorney James Bell, Caswell, Bell and Hillison, speaking as a pilot and resident of Sierra Sky Park; John Marshall, 516 W. Shaw, who also submitted a letter of support into the record from Robert M. Piccinini, Chairman & CEO of Save Mart Supermarkets; David Padilla, Peters Engineering Group, 55 Shaw, Clovis; and Attorney Bob Hillison, Caswell, Bell and Hillison, 5200 N. Palm, who also requested the contract be extended.

Speaking in opposition to the project expressing various concerns were: Debbie Nard; Robert Hirth; Cedric Peacock, 3866 W. Beechwood; Mary Nonig Law; Cindy (last name inaudible) and Nora Huffman, 7412 W. Menlo; Sue Garabedian, 7229 N. Dewey; John Cadwalader, 6615 N. Gentry (**6 - 0**); Pat Pinto; Dr. Tom Babayan; Cheryl Medeiros; Randy Reed, 1130 W. Fremont; Betsy Helzer; Edward Law; Michael Schmidt, 3581 W. Spruce; and Cynthia Simms, 6658 N. Gentry.

Applicant Paynter spoke briefly in conclusion, referencing speaker comments stated the poll conducted had integrity and explained, and stated there was significant support (3 to 1 in favor) for the project and requested Council make a fair decision.

Upon call, no one else wished to be heard and President Duncan closed the public hearing.

RECESS - 7:03 P.M. - 7:09 P.M.

Upon the request of President Duncan, Chief Assistant City Attorney Sanchez clarified issues relative to the outstanding Purchase and Sale agreement the City has with the developer, to how the agreement made no guarantees or promises regarding land use process, to how it preserved the City's legislative discretion to allow Council to make a decision on all of the entitlements based on their merits, to the allegations made by developer representatives of staff processing delays, to how the project was in a state of uncertainty for a substantial period of time and impacts, and to the two options available to Council.

Councilmember Calhoun thanked everyone for their presence and input, spoke to the issue at length covering events that took place from the beginning when he first became aware of this development to the present time, emphasized there had been no talk of a Target store when this began, stated the reality was the developer had not made a compelling enough case to him, to the planning & development director, to the planning commission or to the neighbors on why they should support this high level plan amendment request that would compromise the very important 2025 general plan, and made a motion to approve staff's recommendation to deny the plan amendment and rezone application, which motion was seconded and later acted upon.

Lengthy discussion ensued. Mr. Sanchez, Planning & Development Director Yovino, City Manager Souza and/or Supervising Real Estate Agent Balch responded to numerous questions and/or comments of Councilmember Boyajian relative to what the crux was of the Blosser lawsuit, why the City lost, if the City was unreasonable in their demands, if the contract was at issue here, why the developer was not being given an opportunity to see if this project would work, this being premature/why this was before Council at this point (**7 - 0**), if the developer did not meet the threshold, if staff's position was there was no compelling reason to support the project ahead of requiring an EIR, the property being city-owned and why no options were presented for recreational/park facilities, if there will ever be a project there that can be agreed upon or allowed, concern with the numerous projects on Herndon Avenue and lack of a plan for Herndon, and need to utilize the property as a park space; of Councilmember Dages relative to whether Mr. Paynter paid all required fees, if staff ever made suggestions to him as to what would be allowed/supported, if there will be a plan amendment regardless of what happens here,

if Target could go across the street to the property already zoned commercial, feeling that the City did not act in good faith, concern that Mr. Paynter went through the process and was then told "no", and there being a problem with the process and a need for change; and of Councilmember Westerlund relative to the background of the issue, a Target project being unknown when he heard the property would be purchased, how there was no guarantee for a plan amendment or rezone, if staff was involved in the land sale contract negotiations, if there was give and take on both sides, what staff's response was to the delay allegation, if a particular planner was assigned to this project, the letter received last year about moving the project to another corner, if a site plan was submitted for that other site, need for a compelling/significant reason to change the general plan, and this being a safety issue.

147-42

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On motion of Councilmember Calhoun, seconded by President Duncan, duly carried, RESOLVED, the initial study prepared for the subject E.A. concluding that the proposed project could result in significant adverse environmental impacts considered, and the above entitled Resolution No. 2006-51 hereby adopted and the plan amendment and rezone applications denied, by the following vote:

Ayes : Boyajian, Calhoun, Perea, Sterling, Westerlund, Duncan
Noes : Dages
Absent : None

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 8:05 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the 7th day of February, 2006.

_____/s/_____
Jerry Duncan, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk

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1/31/06